IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 454 of 2001
(Old No. 320/2000)

1. The Commissioner of Income Tax
   Meerut
3. A.C.I.T., Special Circle
   Dehradun ... Appellants

Versus

Saipem SPA as agent of
Mr. Biscalani Carlo Arthur
Andersen & Co., Bombay ... Respondent

Mr. S. K. Posti, Advocate for the appellants.

Coram: Hon. P. C. Verma, J.
Hon. J.C.S. Rawat, J.

JUDGMENT

1. This appeal is filed against the order dated 22.03.2000 passed by the Income Tax Appellate Tribunal, Delhi Bench 'SMC', New Delhi in I.T.A. No. 4573/D/93. The dispute relates to the Assessment Year 1990-91. The assessee is Mr. Biscalani Carlo, represented by Saipem SPA.

2. The substantial questions of law raised in the appeal are as follows:

(iii) "Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding that free boarding and lodging facilities provided by the employer on board the rig in high seas cannot be construed to be perquisite?"

(iv) "Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding the that interest u/s 234-B of the I.T. Act cannot be charged since the entire income of the assessee was subject to T.D.S. whereas this interest is chargeable on assessed tax as defined by Explanation I below Section 234-B?"

3. In Commissioner of Income Tax and another Vs. SEDCO Forex International Drilling Co. Ltd. and connected cases report in (2003) 264 ITR 320, a Division Bench of this Court held that the free boarding facility provided by the employer on the rig was not a perquisite under section 17(2)(iii) and that its value cannot be added to the income of the assessee. It has been further held

that the imposition of interest under section 234-B was not justified without hearing and without reasons.

4. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.) **(P.C. Verma, J.)**
22.11.2005 **22.11.2005**

LSR